

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**JOSE I. LOPEZ, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Miami, FL, Employer**

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**Docket No. 05-1392  
Issued: October 19, 2005**

*Appearances:*

*Stanley M. Rosenberg, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On June 20, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated June 6, 2005, denying modification of a September 20, 2004 decision. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has established a back injury causally related to factors of his federal employment.

**FACTUAL HISTORY**

On July 30, 2004 appellant, then a 61-year-old letter carrier, filed an occupational disease claim for compensation (Form CA-2) alleging that he sustained a lumbar condition as a result of his federal employment. The reverse of the claim form indicated that appellant stopped work on February 21, 2004. In an accompanying statement, appellant attributed his condition to bending and lifting over a 22-year career. He submitted a June 1, 2004 work status form report from

Dr. Andres Vega, an anesthesiologist, who diagnosed herniated nucleus pulposus at L4-5 and L5-S1 and limited appellant to light-duty work.

By letter dated August 9, 2004, the Office advised appellant that he needed to submit additional evidence to establish his claim. By decision dated September 20, 2004, the Office denied the claim on the grounds that the medical evidence was insufficient to establish the claim.

Appellant requested reconsideration and submitted additional evidence from Dr. Vega. In a report dated March 1, 2004, Dr. Vega provided a history of acute back pain over the prior two or three weeks with radiation to the lower extremities, left worse than right. He provided results on examination and the diagnoses included lumbar radiculopathy, lumbar disc displacement, lumbar spondylosis and sacroiliitis. He indicated that the treatment plan was to provide a series of facet joint injections. The record contains numerous reports from Dr. Vega, from March 31, 2004 to February 10, 2005 with respect to lumbar injections.

By decision dated June 6, 2005, the Office reviewed the case on its merits and denied modification of the September 20, 2004.

### **LEGAL PRECEDENT**

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition, medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed and medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>1</sup> The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, showing a causal relationship between the claimed conditions and his federal employment.<sup>2</sup> Neither the fact that the condition became manifest during a period of federal employment, nor the belief of appellant that the condition was caused or aggravated by his federal employment, is sufficient to establish causal relation.<sup>3</sup>

### **ANALYSIS**

In the present case, appellant identified bending and lifting during his federal employment as contributing to a lumbar condition. The medical evidence from Dr. Vega included diagnoses of herniated L4-5 and L5-S1 discs, as well as radiculopathy and lumbar spondylosis. The record does not, however, contain a reasoned medical opinion on causal relationship between the diagnosed conditions and the identified employment factors. Dr. Vega's reports indicate that appellant received facet joint injections as treatment for a lumbar condition, but he did not discuss the identified employment factors or offer an opinion on causal

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<sup>1</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>2</sup> *See Walter D. Morehead*, 31 ECAB 188 (1979).

<sup>3</sup> *Manuel Garcia*, 37 ECAB 767 (1986).

relationship with a diagnosed condition. It is appellant's burden of proof to submit probative medical evidence on the issue of causal relationship. Appellant did not submit medical evidence with a reasoned medical opinion, based on a complete background, on the issue of causal relationship with employment. For this reason, the Board finds that he did not meet his burden of proof in this case.

### **CONCLUSION**

The Board finds that appellant did not submit sufficient medical evidence on the issue of causal relationship and therefore he did not meet his burden of proof to establish a back injury causally related to his federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated June 6, 2005 and September 20, 2004 are affirmed.

Issued: October 19, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board